

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HERB TOMPKINS,

Plaintiff,

vs.

INTERSTATE DISTRIBUTOR CO., a
foreign corporation, GARRETT BURKHART,
JR., SCHNEIDER NATIONAL CARRIERS,
INC., a foreign corporation, and
WESTLEY DANSIE,

Defendants.

O R D E R
Civ. No. 08-6009-AA

AIKEN, Judge:

Plaintiff filed his complaint on January 8, 2008, alleging a personal injury action against defendants regarding a motor vehicle accident. This court has jurisdiction based on diversity of citizenship pursuant to 28 U.S.C. § 1332. Plaintiff was originally represented by counsel, however, counsel's motion to withdraw was granted by this court in July 2008. At that time the court stayed the action allowing plaintiff three months, or until October 2, 2008, to obtain other counsel. On December 11, 2008, the court filed an Order to Show Cause due to lack of prosecution. On December 30, 2008, plaintiff, appearing pro se, filed a motion to extend all pretrial dates. The court granted

1 that motion and allowed plaintiff until January 30, 2009, to
2 obtain counsel or continue pro se. Meanwhile, on January 8,
3 2009, defendants filed motions for summary judgment pursuant to
4 Fed. R. Civ. P. 56. Plaintiff failed to file any response or
5 opposition to the motions. On February 9, 2009, the court filed
6 an Order Advising Plaintiff of Federal Summary Judgment Standards
7 (doc. 32). That Order was returned to the court several times as
8 undeliverable and the court has had no further communication with
9 plaintiff, including any response to the pending motions.

10 Therefore, this case is dismissed due to lack of
11 prosecution.

12 CONCLUSION

13 Defendants' motions for summary judgment (doc. 24 and 28)
14 are denied as moot. This case is dismissed due to lack of
15 prosecution.

16 IT IS SO ORDERED.

17 Dated this 17 day of April 2009.

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21 /s/ Ann Aiken
22 Ann Aiken
23 United States District Judge
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